

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 1, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Dick Esseks, Lynn Sunderman, Gerry Krieser and Tommy Taylor (Mary Strand and Roger Larson absent); Marvin Krout, Ray Hill, Stephen Henrichsen, Brian Will, Greg Czaplewski, Tom Cajka, and Jean Walker of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held February 15, 2006. Motion for approval made by Carroll, seconded by Taylor and carried 5-0: Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Krieser abstaining; Larson and Strand absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Carlson, Carroll, Esseks, Sunderman, Krieser and Taylor; Larson and Strand absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 06007; COUNTY CHANGE OF ZONE NO. 06008; CHANGE OF ZONE NO. 06011; USE PERMIT NO. 84B; ANNEXATION NO. 05019; CHANGE OF ZONE NO. 05085, FALLBROOK PLANNED UNIT DEVELOPMENT; ANNEXATION NO. 05016; CHANGE OF ZONE NO. 06009; and SPECIAL PERMIT NO. 06006.**

Ex Parte Communications: None.

Items No. 1.2a and 1.2b, Change of Zone No. 06011 and Use Permit No. 84B; and Items No. 1.3a and 1.3b, Annexation No. 05019 and Change of Zone No. 05085, Fallbrook Planned Unit Development, were removed from the Consent Agenda and had separate public hearing.

Taylor moved approval of the remaining Consent Agenda, seconded by Carroll and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent.

Note: This is final action on Special Permit No. 06006, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days following the action by the Planning Commission.

CHANGE OF ZONE NO. 06011
FROM R-2 RESIDENTIAL DISTRICT TO
B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT
and
USE PERMIT NO. 84B,
TO ADJUST THE YARD REQUIREMENTS
AND ALLOW ADDITIONAL PARKING,
ON PROPERTY GENERALLY LOCATED
AT SO. 70TH STREET AND PIONEERS BLVD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Carlson, Carroll, Esseks, Sunderman, Krieser and Taylor; Larson and Strand absent.

Staff recommendation: Approval of the change of zone and conditional approval of the amendment to the use permit.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda by the Clerk due to a request by the applicant for a two-week deferral.

Proponents

1. Mike Rierden appeared on behalf of the applicant. He is requesting a two-week delay for further discussion with the neighbors to the west.

Carroll moved to defer, with continued public hearing and action scheduled for March 15, 2006, seconded by Esseks and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent.

There was no other public testimony.

ANNEXATION NO. 05019 and
CHANGE OF ZONE NO. 05085,
FALLBROOK PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT HIGHWAY 34 AND FALLBROOK BLVD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson; Strand and Larson absent.

Staff recommendation: Approval of the annexation and conditional approval of the planned unit development.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda and had separate public hearing at the request of Peter Katt.

Proponents

1. Tim Mettenbrink, 1815 Y Street, Vice-President of Real Estate for **Nebco**, the developer of Fallbrook, presented the applications. He chose to defer his presentation until there are questions. This is a complicated application. It is one which they have worked with both Planning and Public Works staff for about the last nine months. It is a culmination of those conversations. Nebco is happy with the staff comments. Everyone has worked hard on this project and he thanked the staff.

2. Peter Katt appeared on behalf of **Prairie Homes**. He stated that he did not pull this item from the consent agenda to express opposition. Less than a year ago, Prairie Homes brought forward a project immediately west of this proposal called Highland View. Prairie Homes has had discussions with the Nebco interests from time to time during the period while they were working on Highland View, but they have not been involved recently in the discussions on the final package and the approval of this proposal which was released last Thursday. Prairie Homes has not had an opportunity to fully review this proposal; however, Katt is sure it is very complicated and very detailed and very well worked out with staff.

The issue and concern is that access to the Highland View properties and that development has always been problematic. The concern is that the only connection point that this proposal brings forward (and there is a section of the property that is excluded from the PUD) would connect to the two access points on NW 12th that would join the developments. That is the planning question – what is the plan? What is the

timeline for other connections that will allow Highland View to be incorporated into the fabric of the City of Lincoln? Katt did not have any specific amendments because he has not had the opportunity to review all of the information and why the applicant is excluding part of the property they own now. He just wanted to let people know that there is that issue out there.

Esseks asked Katt to explain his major concern – do you need a connection to N.W. 12th? Katt recalled the challenges on access that Highland View had. It was finally resolved. The City Council granted a full movement interchange on Hwy 34, which must also be approved by the Nebraska Department of Roads. The Nebraska Department of Roads is not in agreement with the City's recommendation and it is uncertain at this point what will happen with that particular access to the Highland View subdivision. In order for the Highland View development to move forward (which is in Tier I, Priority A), access and connection to the existing city street paved road network is important. This project gets us part way there. He does not know the timeline for the paving of Alvo, which will be covered in the annexation agreement. He is in the process of getting that information put together, but it would be helpful to Highland View to have connection points other than the one at N.W. 12th and Alvo.

Esseks inquired whether Katt is requesting a delay on the Fallbrook PUD. Katt stated that he does not think it should be delayed. He believes there will be adequate opportunity for public involvement and comment as this proposal moves forward to the City Council. The last thing he wants to do after they have spent nine months of effort on this, is to delay their process. They have important work to do. We need to get access in that area. If there is any way, it is important to improve additional access for Highland View, but he does not want to jeopardize the Fallbrook project.

Sunderman referred to the map and asked what access Katt was talking about, and whether there is other access that is not shown on the map. Katt pointed out the current Highland View access points at the map, consistent with the future city stub requirements stubbing into adjoining property. The difference is that part of the property owned by Nebco is not technically part of this PUD. Therefore, they are not required to show the connection points. The Highland View plat did not provide for any direct connections because there is an arterial street 1/4 mile to the west. That would be a later phase, so the access point would be south on N.W. 12th in order to access to Alvo Road. N.W. 12th is an existing right-of-way from a county right-of-way standard. The right-of-way on the east side has not been dedicated. There is a partial right-of-way in existence there.

There was no testimony in opposition.

Staff questions

Carlson inquired about potential connections other than N.W. 12th and Alvo Road. Tom Cajka of Planning staff agreed that Highland View to the west was approved with access to Hwy 34 and they ran into problems with the state. Highland View was approved to allow the final platting of 115 lots with one access onto Hwy 34. Future access points were going to be to Alvo Road and some other stub streets to the east into Fallbrook. The other option was that they could use Alvo Road and go to the west to N.W. 27th and back to Hwy 34, but that would require them to pave those streets. The Fallbrook PUD does not include that area west that abuts Highland View except for Alvo Road that is shown in the PUD. He does not believe that area was ever shown in any previously approved plat. Fallbrook currently has a preliminary plat, community unit plan and use permit. This proposed PUD rolls those three separate permits into one PUD.

Esseks inquired whether there is anything that can be done to serve the interests of both developments. Cajka explained that we cannot require that the west portion of the Fallbrook property be included in the PUD.

Response by the Applicant

Mettenbrink further testified that what they are trying to accomplish out in Fallbrook is something that is different and unique, and in many ways is special in this community. They are doing things that a lot of people would not do and cannot do. They are trying to do something that is better; that is a signature piece for this community for the next century.

Nebco has met with Mr. Katt and his client at least three times. Nebco agreed with Prairie Homes quite some time ago that Nebco would do exactly what is being requested in this proposal, which is to annex Alvo Road over to N.W. 12th Street so that we can get Alvo built. Nebco is trying to get the perimeters of its development put in place. It is time to branch out to the north and the west. Nebco is agreeing to annex that property and to start design and engineering those improvements. Nebco has committed to LPS and the YMCA that before that school is completed in Fallbrook in the fall of 2009, Alvo Road will be completed, Tallgrass Parkway will be completed and Stonebrook Parkway will be completed, at significant expense to Nebco. The previous annexation agreement calls for payback from the city on a shared basis. Those funds are no longer in the CIP and Nebco understands that. They have agreed with the City to move ahead and do what is required and what is necessary for this community to continue to grow.

Mettenbrink then addressed Prairie Homes and Highland View. In their meetings, they did discuss additional access points along N.W. 12th Street, but unfortunately, with the

plan that Nebco has right now and some of the conversations that are underway with some major developments over on that side, Nebco is not prepared to plat that piece yet. They are not exactly sure where the boundaries of a particular development might end up. Nebco has said that they are willing to live with the consequences of “you being ahead of us – you go ahead and plat your side – you fix the access points on N.W. 12th Street, and we’ll work to those.” Nebco believes it has given up quite a bit. Nebco did not put any restrictions on Prairie Homes about where those access points might be shared on N.W. 12th Street. Nebco has also agreed that if Prairie Homes ended up at their trigger point of having two accesses from their development, Nebco would work with them to get Alvo done, even if Nebco isn’t ready yet. Nebco has made this commitment to Prairie Homes. Nebco typically does what it says it is going to do.

ANNEXATION NO. 05019

ACTION BY PLANNING COMMISSION:

March 1, 2006

Carroll moved approval, seconded by Sunderman and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting ‘yes’; Strand and Larson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05085

FALLBROOK PLANNED UNIT DEVELOPMENT.

ACTION BY PLANNING COMMISSION:

March 1, 2006

Carroll moved approval of the staff recommendation of conditional approval, second by Sunderman and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting ‘yes’; Strand and Larson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 04005

FROM AGR AGRICULTURAL RESIDENTIAL DISTRICT

TO P PUBLIC USE DISTRICT,

ON PROPERTY LOCATED AT

7700 PINE LAKE ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson; Strand and Larson absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

The applicant was not present.

Brian Will of Planning staff appeared to explain this application. This change of zone application was submitted in February of 2004. At that time, the staff met with the applicant, noting some concerns and suggesting alternatives. The applicant then requested that the application not be placed on the Planning Commission agenda and be delayed to allow time to consider those alternatives. This application is being brought forward at this time in an attempt to clear it off the docket because the applicant has not pursued any of the suggested alternatives and has not withdrawn the original application. Therefore, staff is recommending denial. The applicant was notified three times that this application would be placed on the agenda if not withdrawn.

There was no testimony in support nor in opposition.

ACTION BY PLANNING COMMISSION:

March 1, 2006

Taylor moved to deny, seconded by Esseks.

Taylor noted that he has not seen this happen before but that he appreciates the work staff is doing to help clear up pending projects.

Motion to deny carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 06010
FROM O-3 OFFICE PARK DISTRICT
TO B-2 PLANNED NEIGHBORHOOD BUSINESS DISTRICT,
ON PROPERTY GENERALLY LOCATED
AT 84TH AND HOLDREGE STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 1, 2006

Members present: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson; Strand and Larson absent.

Staff recommendation: Approval, as revised

Ex Parte Communications: None.

Greg Czaplewski of Planning staff advised that the applicant has agreed to reduce the area of this change of zone request and he submitted a revised map showing the revised area. The O-3 zoning along 86th Street will be retained. The western portion of the site would be changed to B-2. The applicant will submit a revised legal description prior to scheduling the application on the City Council agenda.

Proponents

1. **Michael Rierden** appeared on behalf of **Morning Glory Estates** and expressed agreement with the revised proposal and map.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

March 1, 2006

Taylor moved approval, subject to revised legal description in accordance with the map submitted today, seconded by Esseks and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent. This is a recommendation to the City Council.

COMPREHENSIVE PLAN AMENDMENT NO. 05010
TO DESIGNATE A SITE SPECIFIC NEIGHBORHOOD CENTER
ON THE SOUTHWEST CORNER OF 40TH STREET AND ROKEBY ROAD;
TO DESIGNATE A SITE SPECIFIC COMMUNITY CENTER
ON THE EAST SIDE OF 40TH STREET, APPROXIMATELY ½ MILE
SOUTH OF ROKEBY ROAD; AND TO AMEND THE LAND USE PLAN
TO CHANGE THE DESIGNATION FROM URBAN RESIDENTIAL TO
COMMERCIAL ON THE SAME PROPERTIES.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson; Strand and Larson absent.

Staff recommendation: Approval

Ex Parte Communications: None.

Proponents

1. **Kent Seacrest** appeared on behalf of **Butch Cassidy, LLC, Sundance, LLC and Buckshot Farms**. This proposal was originally made as part of the 23005 Annual Review of Comprehensive Plan to designate a Neighborhood Center on the southwest corner of 40th & Rokeby Road and to take the "floating" Community Center dot that was in the Comprehensive Plan in this area and formally designate it on the east side of 40th about ½ mile south of the intersection. This changes the dots from "floating" to "sticky" dots. This puts the world on notice and allows definitive planning to occur.

With regard to the Neighborhood Center, the intent is to create something for the “baby boomers” and older senior citizens. The developers believe they can put housing around this area, geared toward the older generation, and concentrate the center on doctors, dentists, allied medical services, pharmacies, physical therapists, preventative health care and restaurants that are geared for the older generation. It is a new product, and the developers are confident that there is a niche. Seacrest then showed a proposed site plan as an illustration only. But what is formally before the Commission are the “Neighborhood Center” and the “Community Center” designations. The use permits and other site details will come forward at a later date.

2. Doug Halvorsen, the landscape architect who has been working with this project for a long time, gave a presentation. He believes these developers have a great vision. There is a pretty ugly power station right next to the area, so the idea is to make this something that is a strong neighborhood feel, but a different neighborhood than single family. He explained the concept showing assisted living or independent living along with some shopping centers, some offices, and a bigger box type grocery store. They are planning a project that is strongly connected. There also needs to be an employment center here which provides the reason to live here. It will be a huge advantage to this neighborhood to have an employment center. They ponds will be saved and they have spent a lot of time looking at the aesthetics.

Seacrest noted that the staff has recommended approval and he thanks the staff for their time and energy.

Esseks inquired about the type of screening between the residential and the office area. Tim Gergen of Olsson Associates stated that there would be a minimum 50' buffer. Most of it is a swale that leads to the pond, then leads to the creek. It is all part of the trail system.

Seacrest added that they have learned over time that as long as you identify where the offices will be located, those residential lots will sell well. Neighbors generally like offices because they cut the grass and they're gone in the evening and weekends. Most neighbors find a quality office complex to be an attribute.

Carlson referred to the proposed LPS site, noting that it is not necessarily where the school will be located. Seacrest acknowledged that they have had various conversations with LPS and he is confident LPS will want a site in this vicinity. They often buy a nice piece of land and they know developers will want to reconfigure them and they wait. Schools generally come after the rooftops. It might be a middle or elementary school. If it is a middle school, they do not want it on the arterial. Whether it is a middle school or elementary school, their first preference would not be next to the substation. The developers will be working with LPS, but LPS will also have to make a strategic decision sooner rather than later whether it will be middle or elementary

because it would affect the layout of the residential uses.

Carlson encouraged that the school location be thought about early in the process so that the streets can be configured properly for drop-off and pickup. Seacrest agreed and stated that they have already started this discussion. He did note, also, that the community is seeing a trend that is disappointing, where 80% of elementary students are driven to school now.

Esseks inquired whether these developers also own the phase two properties. Seacrest acknowledged in the affirmative. Phase two is on the other side of the ridge, which, according to the Comprehensive Plan, is six to ten to twelve years from being sewerred. "The part we colored is the first phase that is sewerable."

3. Peter Katt appeared on behalf of three property owners (Duane Hartman, Overland and Oelling). These property owners have also been participating in the process of developing and working on a comprehensive plan amendment. They do not have a particular objection to this proposal; however, Katt finds it a little strange that this proposed comprehensive plan amendment is moving in front of the rest of the Comprehensive Plan Update process and in front of the transportation plan element. Katt advised the Commission that his purpose is to let the Commission know that there are other contemplated changes that are likely to occur as a part of the Comprehensive Plan Update.

In particular, with regard to the Overland property (light industrial), there is a consensus that is developing that light industrial on the south entryway into Lincoln with the beltway may not be the most attractive way to develop and plan for this entrance. He believes that there is some consensus developing to change that to a more commercial designation. Associated with that is perhaps moving and relocating the industrial over onto the Hartland property. South 27th Street then will be relocated through the Oelling property and connected to the off-ramp. There will be discussions about the new right-of-way. Katt takes issue with the comment in the staff report which appears to indicate that the designation of this neighborhood center implies that it will be the only neighborhood center in this section, except if you meet the incentive criteria in the Comprehensive Plan. His clients are not far enough in the planning process to be at the same level as this proposed Comprehensive Plan Amendment, but with relocation of the South Beltway/South 27th Street, his clients' properties also make good locations for commercial uses that will serve the highway traffic and the neighborhood.

There was no testimony in opposition.

Staff questions

Esseks agreed that page 7 implies that the neighborhood center in the northeast corner of the section would be the only one. Is it limited to one in the Comprehensive Plan? Stephen Henrichsen of Planning staff referred to page 6 of the staff report, indicating that the comments come from the text of the Comprehensive Plan which talks about Neighborhood Centers. The staff report is pointing out that typically we have had one neighborhood center per square mile, but where there is greater density, then perhaps two may be appropriate.

Esseks inquired whether Mr. Katt's clients could get a neighborhood center. Henrichsen believes that would be speculation at this point. The proximity to the beltway has nothing to do with the siting of the neighborhood center. It is difficult to know that the land north of Saltillo Road, within ½ mile of the South Beltway, would have greater density between Rokeby and Saltillo. We have seen more demand for single family than apartments. You might see a standard single family subdivision, but it might not warrant two neighborhood centers.

Esseks asked whether approval of this amendment binds that interpretation on page 7. Henrichsen stated that if the criteria set forth in the Comprehensive Plan is met, the designation of a second neighborhood center might be warranted.

Sunderman inquired why this amendment should not wait until the entire Comprehensive Plan Update. Henrichsen observed that this application came forward as a much larger proposal as part of the last year's annual review. It was held at the request of the applicant. The larger proposal is still part of the update. The transportation alternatives are based on over 2.5 million square feet of commercial – the bigger picture is being looked at as part of the 2030 plan. There is already a community center designated in the Comprehensive Plan. They want to move forward with this first phase and would like to have more certainty as to where the community center and neighborhood center would be located.

Response by the Applicant

Seacrest acknowledged that the owners did apply over a year ago. There is already a "floating" symbol on this same site in the Comprehensive Plan today. There is not a product in the Comprehensive Plan for the older generation. This is the closest thing they could find to call what they are dreaming about as a product. The plan is legally flexible and there are other sections of our community that have two neighborhood centers. This makes some sense because we have to be careful not to get too much on 27th Street which could trigger the need for six lanes. The traffic models did show capacity over on the 40th Street side for what they are showing.

ACTION BY PLANNING COMMISSION:

March 1, 2006

Carroll moved approval, seconded by Esseks.

Carroll commented that he believes the location on 40th and Rokeby is an excellent location for the Neighborhood Center dealing with the substation and the school system. He agrees that trying to put things on the 27th Street corridor is going to be too crowded and too expensive. 40th is a good location.

Carlson appreciates the emphasis on pedestrian access.

Motion for approval carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 05052,
UNIVERSAL ADDITION,
ON PROPERTY GENERAL LOCATED
AT S. 14TH STREET AND PIONEERS BLVD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson; Strand and Larson absent.

Staff recommendation: Conditional Approval

Ex Parte Communications: None.

The Clerk announced a request by the applicant for an additional deferral until June 7, 2006.

Sunderman moved to defer, with continued public hearing and action on June 7, 2006, seconded by Krieser and carried 6-0: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson voting 'yes'; Strand and Larson absent.

There was no public testimony.

CHANGE OF ZONE NO. 05082
FROM R-6 RESIDENTIAL TO B-3 COMMERCIAL,
ON PROPERTY GENERALLY LOCATED
AT S. 21ST AND K STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 1, 2006

Members present: Krieser, Carroll, Sunderman, Esseks, Taylor and Carlson; Strand and Larson absent.

Staff recommendation: Denial.

Ex Parte Communications: Carlson disclosed that he received a call yesterday and asked the individual to send an e-mail. Krieser disclosed that he received a call from Mark Hunzeker since he was not at the meeting when the public hearing was held.

Additional information submitted for the record: Greg Czaplewski of Planning staff submitted a letter addressed to the applicant from the Health Department indicating that they conducted a site visit at the applicant's existing facility to measure concentrations of airborne auto paint solvents and found them to be well within the acceptable range. The Health Department staff also conducted a site visit at the proposed 21st and K site and have determined that the present exhaust and filtration systems appear to be adequate.

Czaplewski also submitted three letters received in opposition. One of the questions raised was the potential for the convenience store and restaurant previously denied by the Planning Commission and City Council. Czaplewski advised that that change of zone was denied and thus the applicant cannot reapply for a period of one year regardless of the action on this proposal.

Another one of the letters expressed a concern about notification to the Downtown Neighborhood Association. Czaplewski advised that all property owners within 200' of the boundaries of the specific application are notified and a courtesy copy is also sent to the neighborhood district. In this case, the contact on the Planning Department mailing list for the Downtown Neighborhood Association was notified. A notice was also sent to the Downtown Lincoln Association.

Sunderman noted that the letter in opposition from Lisa Kelly refers to Economy and Performance, a business which was also displaced by Antelope Valley and which found another location downtown. Czaplewski was not familiar with that business. Carlson believes that business moved from 19th and Q to 16th and O because they were being displaced, and there was additional concern that they might be displaced again.

Esseks noted that the letter in opposition from D.E. Burdic questioned why Mr. Hillhouse was not allowed to relocate to the Williamson property. Czaplewski did not have an answer. He was not familiar with that location; however, he noted that it is in the floodplain.

Proponents

1. **Peter Katt** appeared on behalf of the applicant in Mark Hunzeker's absence. He pointed out that there have been no odor complaints from the existing facility. The Health Department has tested the equipment and it was found to be well within all Health Department guidelines.

Katt clarified testimony from the last meeting with regard to the height of the building. The height of the roof will be 14 feet; however, the peaked portions of the roof will be at 18 feet.

Katt went on to state that this application is about finding a location downtown for a business that is being displaced by the Antelope Valley project. The applicant wants to remain downtown. The applicant has investigated a lot of other properties. The city would not allow him to locate on the Williamson property. Katt then showed a rendering of the building elevations. The building and facility will be architecturally compatible with the Capitol Environs District. Katt also pointed out that the Downtown Master Plan and the Antelope Valley Plan show this area as mixed use commercial. Based on what is currently existing in the neighborhood, Katt believes this proposal would be a significant improvement.

There was no testimony in opposition.

Staff questions

Carroll sought to clarify the setback issue if the entire area is rezoned or just the east 280 feet. Czaplewski explained that if the zoning is changed only on the part of the property that will be used for this purpose, the applicant would have to meet some setback requirements. If the change of zone is approved for the entire half block, the setbacks are not an issue.

Carroll also sought clarification of the access issue. There was discussion at the last meeting about using a right-turn in only, and not allowing employee parking in and out onto K Street. Czaplewski stated that Public Works has indicated they would not allow either of the access points on K Street that are shown on this site plan. They would require all access to come off 21st Street to the alley. The access issues would be addressed through the building permit process. The Health Department did suggest a use limitation if there was a conditional zoning agreement. The staff is not proposing

such an agreement and the applicant has not proposed any language.

Esseks inquired whether the staff has made any progress in the last two weeks toward a development and conditional zoning framework for this application. Czaplewski stated that nothing has been drafted. Esseks would like some guidance.

Esseks inquired whether Mr. Hillhouse could agree to only changing the zone on the east 280' and an agreement. The motion made at the previous meeting was read into the record and Mr. Hillhouse indicated that he could accept that framework.

ACTION BY PLANNING COMMISSION:

March 1, 2006

Taylor moved approval of the same motion for approval as made at the meeting held February 15, 2006:

Approval of the change of zone on the east 280', conditioned upon an agreement being reached between the applicant and staff on the site plan and access issue prior to scheduling on the City Council agenda, and conditioned upon approval of the architectural design by the Nebraska Capitol Environs Commission.

seconded by Esseks.

Carroll commented that it is important for the Capitol Environs Commission to review the site plan and the building, and we are relying upon them to make it compatible along K Street. He knows that the Capitol Environs Commission will protect that site and the environs around the Capitol.

Carlson pointed out that all that is before the Commission is a straight change of zone. We have tried to put conditions on the zone change, but that is something new. It is the Commission's role to render an opinion on the suitability of the change of zone. As far as use restrictions, we have not done anything. He respects the business and Mr. Hillhouse, but he agrees with the staff that as far as an entryway, the Capitol environs, Downtown and Antelope Valley, it is not a good fit for this location.

Motion carried 5-1: Krieser, Carroll, Sunderman, Esseks and Taylor voting 'yes'; Carlson voting 'no'; Strand and Larson absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting

of the Planning Commission on March 15, 2006.

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